

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORGANOGENESIS INC.,

Plaintiff,

v.

FAYTHE NESS,

Defendant.

CIVIL ACTION NO. 2:16-cv-00989-GWN-CWH

TEMPORARY RESTRAINING ORDER

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, this matter having come before the Court upon the Emergency Motion for a Temporary Restraining Order and Motion for Preliminary Injunction filed by Plaintiff Organogenesis Inc. (“Organogenesis”), its supporting memorandum of points and authorities, and its supporting declarations, for good cause shown, the Court rules as follows:

The Court finds that:

1. Organogenesis is likely to prevail on the merits of its breach of contract claim against Defendant Faythe Ness (“Ness”) based on the supporting declarations to the Emergency Motion evidencing Ness’s current employment with MiMedx Group, Inc. (“MiMedx”), a direct competitor of Organogenesis, soliciting the same customers she sold to as a former employee of Organogenesis.

2. Ness’s solicitation of her former Organogenesis customers for the benefit of MiMedx will cause immediate and irreparable harm to Organogenesis resulting in the loss of goodwill and market share in Nevada.

The Court hereby orders that Ness be enjoined as follows:

1. Ness shall not, within her former Organogenesis sales territory, participate as a salesperson or employee of any other business, firm or corporation which is, or by her action would become, competitive with the Business of Organogenesis, including MiMedx; and

2. Ness, on her own or in concert with others, shall not attempt to interfere with or entice away any Organogenesis customer within her former Organogenesis sales territory.

For the purposes of this order, the “Business of Organogenesis” shall mean the research, development, biological engineering work, technical and clinical feasibility investigations (conducted or contemplated), governmental approvals (obtained or applied for) and the products and services that may be manufactured, fabricated, packaged, sold, distributed, licensed, offered or contemplated to be offered for sale or license by Organogenesis in the field of tissue regeneration, including living and non-living tissue and organ replacement and repair constructs, related to the fields of wound repair, bio-surgery, and bio-aesthetics, including but not limited to: (a) living dermal equivalents, living epidermal equivalents, living skin equivalents, wound coverings and wound management products; (b) living connective tissue constructs and biomaterial constructs for the repair and/or replacement tendon, ligament, body-wall, cardiac tissue, vasculature, bone, cartilage, neural tissue; (c) injectable matrix compositions, injectable cell compositions, topical compositions containing cytokines, growth factors, and other cell-communication compounds; (d) natural and synthesized collagen compositions, and natural and synthesized extracellular matrix compositions; (e) cell culture media for culturing cells and living constructs; (f) stem cells; and (g) cell-delivery constructs.

Ness’s former Organogenesis sales territory shall mean the municipalities and the associated zip codes set forth in the attached Exhibit A.

This temporary restraining order shall remain in place until May 23, 2016, with a hearing on the Motion for Preliminary Injunction to occur on May 23, 2016, at 9:00AM.

It is further ordered that Organogenesis, having satisfactorily shown good cause, shall not be required to give security pursuant to Rule 65(c), or in the alternatively, is required to provide nominal security in the amount of \$ 1,000.

Dated: May 3, 2016

IT IS FURTHER ORDERED that Ness shall file her Response to Organogenesis's Motion for Preliminary Injunction by the close of business on May 13, 2016. Moreover, Organogenesis shall file its Reply by the close of business on May 18, 2016. Additionally, the hearing on the Motion for Preliminary Injunction shall take place in LV Courtroom 7D before Chief Judge Gloria M. Navarro.



United States District Court Judge

EXHIBIT A

EXHIBIT A

ZIP Code	City	State Name	ST Abbrev
84710	ALTON	UTAH	UT
84714	BERYL	UTAH	UT
84719	BRIAN HEAD	UTAH	UT
84720	CEDAR CITY	UTAH	UT
84721	CEDAR CITY	UTAH	UT
84722	CENTRAL	UTAH	UT
84725	ENTERPRISE	UTAH	UT
84729	GLENDALE	UTAH	UT
84733	GUNLOCK	UTAH	UT
84735	HATCH	UTAH	UT
84737	HURRICANE	UTAH	UT
84738	IVINS	UTAH	UT
84742	KANARRAVILLE	UTAH	UT
84745	LA VERKIN	UTAH	UT
84746	LEEDS	UTAH	UT
84753	MODENA	UTAH	UT
84755	MOUNT CARMEL	UTAH	UT
84756	NEWCASTLE	UTAH	UT
84757	NEW HARMONY	UTAH	UT
84758	ORDERVILLE	UTAH	UT
84759	PANGUITCH	UTAH	UT
84760	PARAGONAH	UTAH	UT
84761	PAROWAN	UTAH	UT
84762	DUCK CREEK VILLAGE	UTAH	UT
84763	ROCKVILLE	UTAH	UT
84765	SANTA CLARA	UTAH	UT
84767	SPRINGDALE	UTAH	UT
84770	SAINT GEORGE	UTAH	UT
84771	SAINT GEORGE	UTAH	UT
84772	SUMMIT	UTAH	UT
84774	TOQUERVILLE	UTAH	UT
84779	VIRGIN	UTAH	UT
84780	WASHINGTON	UTAH	UT
84781	PINE VALLEY	UTAH	UT
84782	VEYO	UTAH	UT
84783	DAMMERON VALLEY	UTAH	UT
84784	HILDALE	UTAH	UT
84790	SAINT GEORGE	UTAH	UT
84791	SAINT GEORGE	UTAH	UT
85325	BOUSE	ARIZONA	AZ
85328	CIBOLA	ARIZONA	AZ
85334	EHRENBERG	ARIZONA	AZ
85344	PARKER	ARIZONA	AZ
85346	QUARTZSITE	ARIZONA	AZ
85348	SALOME	ARIZONA	AZ
85357	WENDEN	ARIZONA	AZ

85359	QUARTZSITE	ARIZONA	AZ
85360	WIKIEUP	ARIZONA	AZ
85371	POSTON	ARIZONA	AZ
86401	KINGMAN	ARIZONA	AZ
86402	KINGMAN	ARIZONA	AZ
86403	LAKE HAVASU CITY	ARIZONA	AZ
86404	LAKE HAVASU CITY	ARIZONA	AZ
86405	LAKE HAVASU CITY	ARIZONA	AZ
86406	LAKE HAVASU CITY	ARIZONA	AZ
86409	KINGMAN	ARIZONA	AZ
86412	HUALAPAI	ARIZONA	AZ
86413	GOLDEN VALLEY	ARIZONA	AZ
86426	FORT MOHAVE	ARIZONA	AZ
86427	FORT MOHAVE	ARIZONA	AZ
86429	BULLHEAD CITY	ARIZONA	AZ
86430	BULLHEAD CITY	ARIZONA	AZ
86431	CHLORIDE	ARIZONA	AZ
86433	OATMAN	ARIZONA	AZ
86436	TOPOCK	ARIZONA	AZ
86437	VALENTINE	ARIZONA	AZ
86438	YUCCA	ARIZONA	AZ
86439	BULLHEAD CITY	ARIZONA	AZ
86440	MOHAVE VALLEY	ARIZONA	AZ
86441	DOLAN SPRINGS	ARIZONA	AZ
86442	BULLHEAD CITY	ARIZONA	AZ
86443	TEMPLE BAR MARINA	ARIZONA	AZ
86444	MEADVIEW	ARIZONA	AZ
86445	WILLOW BEACH	ARIZONA	AZ
86446	MOHAVE VALLEY	ARIZONA	AZ
88901	THE LAKES	NEVADA	NV
88905	THE LAKES	NEVADA	NV
89001	ALAMO	NEVADA	NV
89002	HENDERSON	NEVADA	NV
89003	BEATTY	NEVADA	NV
89004	BLUE DIAMOND	NEVADA	NV
89005	BOULDER CITY	NEVADA	NV
89006	BOULDER CITY	NEVADA	NV
89007	BUNKERVILLE	NEVADA	NV
89008	CALIENTE	NEVADA	NV
89009	HENDERSON	NEVADA	NV
89010	DYER	NEVADA	NV
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89012	HENDERSON	NEVADA	NV
89013	GOLDFIELD	NEVADA	NV
89014	HENDERSON	NEVADA	NV
89015	HENDERSON	NEVADA	NV
89016	HENDERSON	NEVADA	NV

89017	HIKO	NEVADA	NV
89018	INDIAN SPRINGS	NEVADA	NV
89019	JEAN	NEVADA	NV
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89037	COYOTE SPRINGS	NEVADA	NV
89039	CAL NEV ARI	NEVADA	NV
89040	OVERTON	NEVADA	NV
89041	PAHRUMP	NEVADA	NV
89042	PANACA	NEVADA	NV
89043	PIOCHE	NEVADA	NV
89044	HENDERSON	NEVADA	NV
89045	ROUND MOUNTAIN	NEVADA	NV
89046	SEARCHLIGHT	NEVADA	NV
89047	SILVERPEAK	NEVADA	NV
89048	PAHRUMP	NEVADA	NV
89049	TONOPAH	NEVADA	NV
89052	HENDERSON	NEVADA	NV
89053	HENDERSON	NEVADA	NV
89054	LAS VEGAS	NEVADA	NV
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89061	PAHRUMP	NEVADA	NV
89067	COYOTE SPRINGS	NEVADA	NV
89070	INDIAN SPRINGS	NEVADA	NV
89074	HENDERSON	NEVADA	NV
89077	HENDERSON	NEVADA	NV
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89191	NELLIS AFB	NEVADA	NV
89193	LAS VEGAS	NEVADA	NV
89195	LAS VEGAS	NEVADA	NV
89199	LAS VEGAS	NEVADA	NV
89301	ELY	NEVADA	NV
89310	AUSTIN	NEVADA	NV
89311	BAKER	NEVADA	NV
89314	DUCKWATER	NEVADA	NV
89315	EAST ELY	NEVADA	NV
89316	EUREKA	NEVADA	NV
89317	LUND	NEVADA	NV
89318	MC GILL	NEVADA	NV
89319	RUTH	NEVADA	NV
89404	DENIO	NEVADA	NV
89405	EMPIRE	NEVADA	NV
89406	FALLON	NEVADA	NV
89407	FALLON	NEVADA	NV
89408	FERNLEY	NEVADA	NV
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89412	GERLACH	NEVADA	NV
89414	GOLCONDA	NEVADA	NV

89415	HAWTHORNE	NEVADA	NV
89418	IMLAY	NEVADA	NV
89419	LOVELOCK	NEVADA	NV
89420	LUNING	NEVADA	NV
89421	MC DERMITT	NEVADA	NV
89422	MINA	NEVADA	NV
89424	NIXON	NEVADA	NV
89425	OROVADA	NEVADA	NV
89438	VALMY	NEVADA	NV
89442	WADSWORTH	NEVADA	NV
89496	FALLON	NEVADA	NV
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89803	ELKO	NEVADA	NV
89815	SPRING CREEK	NEVADA	NV
89820	BATTLE MOUNTAIN	NEVADA	NV
89821	CRESCENT VALLEY	NEVADA	NV
89822	CARLIN	NEVADA	NV
89823	DEETH	NEVADA	NV
89824	HALLECK	NEVADA	NV
89828	LAMOILLE	NEVADA	NV
89830	MONTELO	NEVADA	NV
89833	RUBY VALLEY	NEVADA	NV
89834	TUSCARORA	NEVADA	NV
89835	WELLS	NEVADA	NV
89883	WEST WENDOVER	NEVADA	NV
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92242	EARP	CALIFORNIA	CA
92267	PARKER DAM	CALIFORNIA	CA
92363	NEEDLES	CALIFORNIA	CA